

Chapter 1707. Overlay Districts

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Sec. 1707-1. Historic Preservation Overlay District

1707-1.1. Definitions

Adversely Affected Person. "Adversely Affected Person" means the applicant, property owner, or any other person, organization, association, entity, or city official who has appeared before the Historic Conservation Board personally, by representative, or in writing on a matter affecting such party, or who has attended a pre-hearing conference on a matter affecting such party.

Alteration. "Alteration" means a change in either the supporting members of a building, such as bearing walls, columns, beams and girders or in the dimensions or configuration of the roof or exterior walls.

Certificate of Appropriateness. "Certificate of Appropriateness" means a certificate issued by the Historic Conservation Board or Urban Conservator, as applicable, indicating that a proposed alteration or demolition is in accordance with the provisions of this chapter.

Demolition. "Demolition" means any act or process that razes, removes, or destroys, in whole or in part a Historic Asset or non-contributing structure, or the substantial deterioration of a Historic Asset or non-contributing structure.

Historic Asset. "Historic Asset" includes the following: (i) a Historic Structure within a Historic District; (ii) a Historic Landmark; or (iii) a Historic Site.

Historic District. "Historic District" means an identifiable area comprised of two or more parcels and containing two or more Historic Assets typical of one or more eras in the city's history, or representing an assemblage of structures important to the city's history that is designated as such pursuant to the provisions of this code.

Historic Landmark. "Historic Landmark" means a Historic Structure or Historic Structures located on a single parcel or contiguous parcels that is designated as such pursuant to the provisions of this code.

Historic Significance. "Historic Significance" means: (a) the attributes or characteristics of a district, site or structure that possess integrity of location, design, setting, materials, workmanship, feeling and association; (b) a district, site or structure that is associated with events that have made a contribution to the broad patterns of our history; (c) a district, site or structure that is associated with the lives of persons significant in the past; (d) a district, site or structure that embodies the distinctive characteristics of a type, period or method of construction; (e) a district, site or structure that represents a significant and distinguishable entity whose components may lack individual distinction; or (f) a district, site or structure that has yielded, or may be likely to yield, information important in prehistory or history.

Historic Site. "Historic Site" means real property on which a Historic Structure is located or on which there is no structure but that is itself of Historic Significance and that is designated as such pursuant to the provisions of this chapter.

Historic Structure. "Historic structure" means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or

- 4) Individually listed on the inventory of historic places maintained by the City of Cincinnati's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

Non-Contributing Structure. A "Non-Contributing Structure" is a structure located within a Historic District or Historic Site, or that is associated with a Historic Landmark, that does not have Historic Significance.

1707-1.2. Specific Purposes and Intent

The specific purposes and intent of the provisions of this chapter are as follows:

- A. Historic preservation;
- B. To promote the public health, safety and welfare;
- C. To foster the beauty of the city;
- D. To stabilize and increase property values;
- E. To strengthen the local economy;
- F. To maintain and enhance the distinctive character of historic buildings and areas;
- G. To safeguard the heritage of the city by preserving districts and landmarks which reflect elements of its history, architecture, archaeology, engineering or culture;
- H. To protect and enhance the city's attractions to current and prospective residents, businesses and tourists;
- I. To facilitate reinvestment in and revitalization of certain districts and neighborhoods;
- J. To facilitate and encourage economic development, public and private investment, and tourism in the city;
- K. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment; and
- L. To maintain the historic urban fabric of the city.
(~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

1707-1.3. Administration

The following provisions are for the administration of the regulations set forth in this Sec. 1704~~7~~-1, Historic Preservation Overlay District. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

1707-1.4. Applicability

Except as otherwise provided in Sec. ~~1704-1.210~~ 1707-1.11, Relationship to Other Special Districts, all regulations of the underlying zone districts and other applicable overlay districts apply to and control property in a Historic District or for a Historic Asset; provided, however, that in the case of conflict between the provisions of the underlying zone district, other applicable overlay districts, and the regulations of this Section shall govern. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

1707-1.5. Urban Conservator

The position of Urban Conservator is established pursuant to Article II, §14 of the City of Cincinnati Administrative Code. The Urban Conservator acts as the secretary to the Historic Conservation Board and has the duties set forth herein, including, but not limited to, the duty to facilitate the processing of certificates of appropriateness. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

1707-1.6. Historic Conservation Board

The Historic Conservation Board is established pursuant to Article II, §14 of the City of Cincinnati Administrative Code. The Board shall adopt rules and procedures to govern its meetings and hearings. The Board's membership and terms shall be determined by Article II, §14 of the City of Cincinnati Administrative Code. In addition to its duties in this Section, the Board shall work with city departments and assist departments in recommendations to Council on methods of financing public improvements in Historic Districts if those improvements require additional expenditures as a result of historic design. Any such recommendation shall be advisory only and shall not be binding or appealable

by any party. All interested city departments may likewise consult with the Urban Conservator. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.7. Variances, Special Exceptions and Conditional Uses

- A. Whenever an application is made for a variance, special exception or conditional use relating to property wholly or partially located within a Historic District or involving a Historic Asset, the Historic Conservation Board exercises the authority granted to the Zoning Hearing Examiner in Chapter ~~1708-1751~~, Administration, ~~of the Cincinnati Land Development Code~~. In such cases, the provisions of Chapter ~~1708-1751~~, Administration, where not inconsistent with the provisions of this Section, apply to the exercise of the authority prescribed therein.
- B. The Historic Conservation Board may grant such conditional use or special exception or variance from the regulations when it finds such relief from the literal implication of the Land Development Code will not be materially detrimental to the public health, safety, and welfare or injurious to property in the district or vicinity where the property is located and either:
 - 1. Is necessary and appropriate in the interest of historic conservation so as not to adversely affect the historic architectural or aesthetic integrity of the Historic District or Historic Asset; or
 - 2. Is necessary where the denial thereof would result in a deprivation of all economically viable use of the property as viewed in its entirety. In making such determination, the Historic Conservation Board may consider the factors set forth in Sec. ~~1707-1.10.B.1.a.iii.~~ ~~1704-~~
 - 3. ~~1707-1.10~~, Certificates of Appropriateness; Procedures. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.8. Appeals

Any Adversely Affected Person may appeal a decision of the Historic Conservation Board or the Urban Conservator, as applicable, made under this Section to the Zoning Board of Appeals pursuant to Chapter ~~1708-1751~~, Administration. Notwithstanding anything to the contrary contained in this Section or Chapter ~~1708-1751~~, Administration, all appeals of certificates of appropriateness shall be to the Zoning Board of Appeals pursuant to Sec. ~~1708-51751-6~~, Zoning Board of Appeals ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.9. Severability

If any portion of this Sec. ~~1704-1707-1~~, Historic Preservation Overlay District shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this Section as a whole or any other part thereof. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.10. Preserving a Structure

A. Becoming a Historic Structure; Determination of Historic Significance.

- 1. For purposes of this Sec. ~~1704-1707-1~~, Historic Preservation Overlay District, a structure or group of structures may be deemed as having Historic Significance if it has at least one of the following attributes:
 - a. Association with events that have made a significant contribution to the broad patterns of our history; or
 - b. Association with the lives of persons significant in our past; or
 - c. Embodies the distinctive characteristics of a type, period, method of construction or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- d. That has yielded, or may be likely to yield, information important in prehistory or history.
2. For purposes of Sec. ~~1704-1-1707-1~~, Historic Preservation Overlay District, a structure or group of structures may not be deemed as having Historic Significance solely because it is:
- a. A cemetery, birthplace, grave of a historical figure or a property owned by religious institutions or used for religious purposes, unless it is a religious property deriving primary significance from architectural or artistic distinction or historical importance; or
 - b. A structure that has been moved from its original location, is a reconstructed historic structure, is a property primarily commemorative in nature or a property that has been erected within the past 50 years, unless the structure or property is an integral part of a district that meets the above criteria or falls within one or more of the following categories:
 - i. A structure removed from its original location but that is significant primarily for architectural value or that is the surviving structure most importantly associated with a historic person or event; or
 - ii. A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or structure directly associated with the subject's productive life; or
 - iii. A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
 - iv. A reconstructed structure when accurately executed in a suitable environment and presented in

a dignified manner as part of a restoration master plan and when no other structure with the same association has survived; or

- v. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or
- vi. A property achieving significance within the past 50 years if it is of exceptional importance or is unique within the city.

~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

B. Becoming a Historic Asset; Designation of Historic Landmarks, Historic Districts and Historic Sites.

1. Applications

Application for the consideration of the designation of a Historic District, Historic Landmark or a Historic Site may be made by the filing of a designation application, in such form as the Historic Conservation Board may prescribe, by the owner of the subject property or by the owner of a property within the area proposed to be designated, by Council or a member of Council, by the City Manager, by the Urban Conservator, by the City Planning Commission, or by a local community organization, including, but not limited to, preservation associations and community councils. No Historic Structure or Historic Site may be demolished or excavated during the pendency of a designation application, which commences upon the filing of a complete designation application. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

2. Report, Public Hearing and Decision

The procedure for the consideration of an application for the designation of a Historic Landmark, Historic District or Historic Site is as follows:

- a. Report. Within ~~sixty (60)~~ days of the receipt of a completed designation application, the Urban Conservator has the duty to prepare and send to the Historic Conservation Board a report and proposed conservation guidelines for the Historic Landmark, Historic District or Historic Site and a proposed boundary map for any Historic District. For a proposed Historic District, the Urban Conservator shall prepare and send to the Historic Conservation Board a list of all structures within the proposed Historic District that the Urban Conservator considers to be Non-Contributing Structures. Not later than ~~thirty (30)~~ days after receipt of the Urban Conservator's report and proposed conservation guidelines, the Historic Conservation Board shall schedule a public hearing on the proposed designation.
- b. Historic Conservation Board. After a public hearing on the proposed designation, the Historic Conservation Board has the duty to decide whether to recommend designation of the proposed Historic Landmark, Historic District or Historic Site and forward its decision, whether favorable or not, along with the proposed conservation guidelines to the City Planning Commission.
- c. City Planning Commission. Within ~~thirty (30)~~ days of the transmittal of the decision and recommendation of the Historic Conservation Board, the City Planning Commission shall hold a public hearing to determine whether to follow the recommendation of the Historic Conservation Board. In making such determination, the City Planning Commission shall consider all of the following factors:
 - i. The relationship of the proposed designation to the comprehensive plans

of the city and of the community in which the proposed Historic Landmark, Historic District or Historic Site is located; and

- ii. The effect of the proposed designation on the surrounding areas and economic development plans of the city; and
- iii. Such other planning and historic preservation considerations as may be relevant to the proposed designation. After a public hearing on the proposed designation and conservation guidelines, the City Planning Commission has the duty to decide whether to approve or disapprove the designation and forward its decision, whether favorable or not, along with the conservation guidelines to Council.
- iv. Council. Upon receipt of the decision of the City Planning Commission, Council shall vote to ordain or overrule the City Planning Commission's decision. A simple majority of the members elected to Council is required to ordain a designation; provided, however, if the City Planning Commission disapproves the designation, a two-thirds majority vote of Council is required to overrule the City Planning Commission's decision.

~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

3. Adoption of Conservation Guidelines

At the time of designation of a Historic Landmark, Historic District or Historic Site, Council has the duty to adopt conservation guidelines for each Historic Landmark, Historic District or Historic Site. Conservation guidelines shall promote the conservation, development and use of the Historic Landmark, Historic District or Historic Site and its special historic, architectural, community or aesthetic interest or value. Insofar as practicable, conservation

guidelines shall promote redevelopment and revitalization of Historic Structures and compatible new development within the Historic District. The guidelines shall not limit new construction within a Historic District to a single period or architectural style but may seek to preserve the integrity of existing Historic Structures. Conservation guidelines shall take into account the impact of the designation of a Historic Landmark, Historic District or Historic Site on the residents of the affected area, the effect of the designation on the economic and social characteristics of the affected area, the projected impact of the designation on the budget of the city, as well as all of the factors listed in paragraph ~~1704-1.90(b)-1707-1.9.B.~~ above. Conservation guidelines shall address Non-Contributing Structures. Approved conservation guidelines shall be published on the City's website and be made available for public inspection in the Department of City Planning and Buildings. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

4. Notice

Upon enactment of a designation, the Clerk of Council has the duty to promptly notify the Historic Conservation Board, the City Planning Commission, the Director of City Planning and Buildings, and the City Solicitor. The Urban Conservator has the duty to provide notice of such designation in the City Bulletin. Once designated, a Historic Landmark, Historic District or Historic Site shall be shown on the city's official zone map by the designation "HL," "HD" or "HS" appended to the underlying zone designation. A Historic Landmark, Historic District or Historic Site may be designated as an overlay on any other zoning district or combined with any other overlay district. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

C. Repeal of Designation

A designation may be repealed if the property owner petitions the Historic Conservation Board in writing setting forth clear and convincing evidence that the qualities which caused the Historic Landmark, Historic District or Historic Site to be originally designated have been lost or destroyed. Upon petition, the process for the repeal of a designation is the same as prescribed for designation as set forth in Sec. ~~1704-1.90-1707-1.9.~~ Preserving a Structure, above. The Historic Conservation Board shall consider the repeal of the designation of a Historic Landmark, Historic District or Historic Site that is lawfully demolished or destroyed at its next regularly scheduled meeting and shall act at that meeting to make a recommendation to the City Planning Commission, which shall consider the matter at its next regularly scheduled meeting. City Council shall then vote on the repeal of the designation at its next regularly scheduled meeting. Upon repeal of the designation, the associated conservation guidelines shall be null and void and of no further force or effect as to said Historic Landmark, Historic District or Historic Site. Upon the repeal of any designation, the city's official zone map shall be amended to remove the designation. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

D. Amendment of Conservation Guidelines

The conservation guidelines for Historic Landmark or Historic Site may be amended if the property owner petitions the Historic Conservation Board in writing setting forth the justifications for the amendment and the proposed changes to the conservation guidelines. Amendment of the conservation guidelines for a Historic District may be initiated by the Historic Conservation Board. Once initiated, the process for the amendment of conservation guidelines is the same as prescribed for the adoption of conservation guidelines as set forth in Sec. ~~1704-11.9(b)(ii), (iii) and (iv)-1707-1.9.B. (2), (3) and (4)~~ above. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.11. Alterations and Demolitions; Certificates of Appropriateness; Minimum Maintenance

No one shall make an alteration or undertake a demolition, or receive any permit to do so, without first obtaining a Certificate of Appropriateness in accordance with this Subsection. Alterations requiring a certificate of appropriateness shall include infill development in a Historic District.

~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

A. Certificates of Appropriateness; Procedures

The following sets forth the procedures and standards for obtaining a Certificate of Appropriateness: ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1. Application

Applications for Certificates of Appropriateness shall be filed with the Urban Conservator on such forms and upon the payment of such fees as may be prescribed by the Historic Conservation Board from time to time. Upon receipt of an application, the Urban Conservator shall time stamp and date the face of the application. Not later than ~~ten~~(10) business days after receipt of an application, the Urban Conservator shall notify the applicant by e-mail, if an e-mail address is provided, and if not, by regular mail, of any deficiencies in the application. An application shall be deemed perfected when all information required by the application form has been submitted and all fees are paid in full. The Urban Conservator shall have the right to request additional information from the applicant at any time prior to a hearing before the Historic Conservation Board. The effective date of the application, for all purposes, shall be the date that the application is perfected, and such date shall be clearly noted on the first page of the application. The

applicant's address set forth on the application shall be the address used by the City for all purposes herein unless updated in writing to the Urban Conservator by the applicant. If the applicant fails to perfect an application after all applicable notice and cure periods have run, the application shall be deemed rejected. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

2. Historic Conservation Board Review and Determination

The Historic Conservation Board has the duty to make a final appealable determination on a perfected application for Certificate of Appropriateness within a reasonable amount of time after the application is perfected, but in no event more than ~~sixty~~(60) days thereof unless the applicant agrees to an extension of time or unless the Board requests additional information from the applicant and tables or continues the matter. A continued matter must be heard at the next regularly scheduled meeting of the Board. A tabled matter must be taken off the table and finally determined within ~~thirty~~(30) days after the matter was tabled. The Board may approve, approve with conditions, or deny an application for Certificate of Appropriateness. The Board's determination on an application for Certificate of Appropriateness shall be made in writing on the Certificate of Appropriateness indicating the Board's approval, conditional approval, or denial of the application, and shall contain findings of fact and conclusions of law and shall be issued by the Urban Conservator to the applicant by certified mail not later than ~~ten~~(10) business days after the date of the Board's final appealable determination, and that writing shall constitute the final appealable order of the Board. Any denial of an application shall also include a statement of the reasons why the application failed to comply with the applicable guidelines. Failure of the Urban Conservator to issue a Certificate of Appropriateness within

such time period shall not invalidate the Board's determination, but shall extend the time for which the applicant has to appeal the Board's determination by ~~one~~(1) day for each day the Certificate of Appropriateness is late. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

3. Urban Conservator Review and Determination

The Historic Conservation Board may delegate to the Urban Conservator the authority to grant Certificates of Appropriateness within ~~thirty~~(30) days of the filing of a perfected application without referral to the Historic Conservation Board and without a public hearing in the case of minor alterations of the type and scope that the Historic Conservation Board may from time to time specify in writing to the Urban Conservator. Notwithstanding anything to the contrary contained herein, the term "minor alterations" shall not include structural alterations or demolition. The Urban Conservator's determination shall be made in writing on the Certificate of Appropriateness indicating the Urban Conservator's approval, conditional approval, or denial of the application, and shall be issued by the Urban Conservator within the above 30-day period, and that writing shall constitute a final appealable order of the Board. If the Urban Conservator fails to issue the Certificate of Appropriateness by the last day of the prescribed time period, then the application shall be deemed approved as submitted. Notwithstanding the delegation of authority to the Urban Conservator, the applicant may make written request that the Board consider the application notwithstanding the delegation of authority to the Urban Conservator. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

4. Notice of Application

Within ~~ten~~(10) days after the perfection date thereof, the Urban Conservator shall send notice of all applications for Certificates of

Appropriateness to all city departments with authority over any aspect of the activities proposed, to all owners of properties located within ~~two hundred feet~~(200') ~~feet~~ of all of the boundaries of the subject property, and to the community council in which the subject property is situated and to all abutting property owners. Such notice shall be by regular mail and electronic mail, if addresses have been provided or are otherwise readily available. In such notice, the Urban Conservator may request and propose a time, date and place for a prehearing conference, to which the applicant, the property owner, and all interested city departments, and the aforementioned community council shall be invited. At such prehearing conference, the comments and recommendations of all interested city departments concerning their respective authority over the proposed improvements and their advice as to the appropriateness of the proposed improvements may be received and discussed with the applicant. No member of the Historic Conservation Board shall be present at any prehearing conference. All interested departments and civic organizations may promptly advise the Board in writing of their respective recommendations for approval, conditional approval, disapproval or modifications of the proposed improvements. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

5. Notice of Hearing

For all Certificates of Appropriateness that are to be considered by the Historic Conservation Board as set forth in 1707-1.11A(2) above, the Board has the duty to provide notice of its hearing on an application to be postmarked by the U.S. Postal Service at least ~~seven~~(7) days in advance of the hearing. Such notice shall be by regular mail and electronic mail, if addresses have been provided or are otherwise readily available, sent to the applicant, all owners of

abutting properties, all owners of properties located within two hundred feet (200') of all of the boundaries of the subject property, the community council in which the subject property is situated, and to any other person who have made written requests to be notified of applications. The Board has the duty to publish a notice of each such application for a Certificate of Appropriateness in the City Bulletin at least ~~seven (7)~~ days in advance of acting on the application. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

B. Certificates of Appropriateness; Standards for Review

1. In accordance with Sec. ~~1704-1.200(a)~~ 1707-1.10.A, Certificates of Appropriateness; Procedures, above, the Historic Conservation Board has the duty to review and make a determination on all Certificates of Appropriateness in the manner prescribed herein for the purpose of furthering the conservation and integrity of the Historic Asset or Historic District affected. The Board may approve or approve with conditions an application for a Certificate of Appropriateness when it finds either:
 - a. That the property owner has demonstrated by credible evidence that the proposal substantially conforms to the applicable conservation guidelines; or
 - b. That the property owner has demonstrated by credible evidence that the property owner will suffer economic hardship if the certificate of appropriateness is not approved. In determining whether the property owner has demonstrated an economic hardship ~~for purposes of (b) above~~, the Historic Conservation Board shall consider all of the following factors:
 - i. Will all economically viable use of the property be deprived without approval of a Certificate of Appropriateness;

- ii. Will the reasonable investment-backed expectations of the property owner be maintained without approval of a Certificate of Appropriateness; and
- iii. Whether the economic hardship was created or exacerbated by the property owner. In evaluating the above factors for economic hardship, the Historic Conservation Board may consider any or all of the following:

- a). A property's current level of economic return;
- b). Any listing of property for sale or rent, price asked, and offers received, if any, within the previous 2 years, including testimony and relevant documents;
- c). The feasibility of alternative uses for the property that could earn a reasonable economic return;
- d). Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property;
- e). Knowledge of landmark designation or potential designation at time of acquisition; and/or
- f). Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

2. Whenever a Certificate of Appropriateness is required pursuant to the provisions of this chapter, the Director of City Planning and Buildings may not issue a building permit until a Certificate of Appropriateness has been approved or approved with conditions. In the event that the standards in this Sec. ~~1704-1.200(b)~~ 1707-1.10.B, Certificates of Appropriateness; Standards for Review, conflict with any standards set forth in any conservation

guidelines, the standards set forth herein shall govern and control. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

C. Demolition Delay

In addition to the provisions of Sec. ~~1704-1.200(a)-1707-1.10.A~~ and ~~1704-1.200(b) Sec. 1707-1.10.B~~, above, if an application for a Certificate of Appropriateness seeks approval of demolition, the Historic Conservation Board may delay determination of the application for a period of 180 days on a finding that alternatives to Demolition may be feasible and should be actively pursued by both the applicant and the Historic Conservation Board. In the event that action on an application is delayed as provided herein, the Historic Conservation Board may take such steps as it deems necessary to preserve the Historic Asset concerned, in accordance with the purposes of this chapter and in accordance with Cincinnati Municipal Code Chapter 1101. Such steps may include but may not be limited to consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features. No demolition shall take place until permitted pursuant to the provisions of this chapter and the Cincinnati Building Code. Any unlawful demolition of a Historic Asset shall be punishable by the criminal and civil penalties set forth in Sec. 1751-8. Enforcement and Penalties Chapter 1451 below and the Cincinnati Municipal Code. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

D. Minimum Maintenance Requirement; Demolition by Neglect.

The owner of a Historic Asset has the duty to provide sufficient maintenance and upkeep for such structure to ensure its perpetuation and to prevent its destruction by deterioration. The provisions of this Section shall be in accordance with Sec. ~~1704-1.210 below~~ 1751-8.8 and Cincinnati Municipal Code Chapter 1101. Any failure to comply with this Section

or Sec. ~~1704-1.210, below~~ 1751-8.8 shall be an unlawful demolition which shall be punishable by the criminal and civil penalties set forth in the Cincinnati Municipal Code and Sec. 1751-8.8 Section 1451-13 and 1451-15 below. The Urban Conservator, in cooperation with the Department of Community Development, shall maintain a list of Historic Assets that are deemed to be neglected and shall publish that list on the City's website annually. (~~Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012~~)

E. Exceptions from Requirement to obtain Certificate of Appropriateness.

1. Nothing in this chapter is to be construed to prevent or regulate:
 - a. Ordinary and routine maintenance or repair to a Historic Asset if it entails no alteration.
 - b. Emergency repairs to public property.
 - c. Emergency demolition, when the Director of City Planning and Buildings, Chief Building Official, and the Fire Chief certify in writing that demolition is required for the immediate preservation of public safety because of an unsafe or dangerous condition that constitutes an emergency. Such determination shall be made in accordance with Cincinnati Municipal Code Chapter 1101. In making a determination about whether to issue an emergency demolition permit, the Chief Building Official shall do all of the following: (i) consult with the Urban Conservator; (ii) review all permit applications for the property filed within a period of two (2) calendar years prior to the emergency; (iii) review City records to account for all City orders which have been placed upon the property during the period of ownership by the current owner; and (iv) review City records to determine whether a vacated building maintenance license has been applied for or issued for the property.
 - d. A Public Infrastructure improvement that Council has expressly approved or that is

required to be installed or maintained by law.

2. For purposes of this Section, the term "Public Infrastructure" shall mean any public utility line, street, roadway, or transit improvement or facility, signalization, directional or safety signage, streetscape, sidewalk or other public safety improvement, and shall not be deemed to include public buildings, parks, paver alleys, granite curbs, plazas or skywalks. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

1707-1.12. Relationship to Other Special Districts

A. Relationship to Overlay Districts

The following sets forth the relationship between overlay zoning districts and Historic Assets or Historic Districts located within or overlapping such overlay districts: (Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)

1. Urban Design (UD) Overlay Districts

Whenever a Historic Asset or Historic District is located within or overlaps an Urban Design Overlay District, the provisions of this chapter control over any conflicting provisions of Sec. 1707-4, Urban Design Overlays, ~~of the Cincinnati Land Development Code~~. In any such case the authority of the Zoning Hearing Examiner specified in Chapter 1751, Administration, is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Historic Conservation Board. In such cases, the provisions of Chapter 1751, Administration, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

2. Hillside (HS) Overlay Districts

Whenever a Historic Asset or Historic District is located within or overlaps a Hillside Overlay District, the provisions of this chapter control over any conflicting provisions of Sec. ~~1704-2~~ 1707-2, Hillside Overlay District of the Cincinnati Land Development Code. In any such case the authority of the Zoning Hearing Examiner specified in Chapter ~~1708~~ 1751, Administration, is transferred to the Historic Conservation Board and all references to the examiner therein interpreted as references to the Historic Conservation Board. In such cases, the provisions of Chapter ~~1708~~ 1751, Administration, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

B. Relationship to Planned Development (PD) Districts:

Whenever a planned development district is located within or overlaps a Historic District or contains a Historic Landmark or Historic Site, the provisions of this Section and any applicable conservation guidelines shall apply and shall be fully incorporated in the final development plan for the planned development district. More specifically, the process for reviewing and issuing a certificate of appropriateness in a planned development district is as follows:

1. Concept Plan Approval Stage

The Urban Conservator shall review all concept plans submitted for the creation of new planned development districts located within or overlapping a Historic District or containing a Historic Landmark or Historic Site. Prior to the City Planning Commission's review of a concept plan, the Urban Conservator shall identify any and all necessary certificates of appropriateness in writing to the City Planning Commission. If no certificates of appropriateness are identifiable on the concept plan, then the Urban

Conservator shall indicate as such in writing to the City Planning Commission. The City Planning Commission's approval of any such concept plan shall be expressly conditioned upon the approval of the certificates of appropriateness identified by the Urban Conservator as part of the final development plan.

2. Final Development Plan Approval Stage

The Historic Conservation Board shall review all final development plans submitted for the creation of a new planned development district located within or overlapping a Historic District or containing a Historic Landmark or Historic Site. Prior to the City Planning Commission's review of a final development plan, the Historic Conservation Board shall make written findings to the City Planning Commission about its approval, conditional approval, or denial of any certificates of appropriateness identified in (i) above, and for any additional certificates of appropriateness that it may identify that were not readily apparent from the concept plan. In reviewing a final development plan, the City Planning Commission may overrule the Historic Conservation Board's written findings by a two-thirds (2/3) majority vote of the City Planning Commission; which shall constitute a final order of the City Planning Commission appealable to the Zoning Board of Appeals pursuant to ~~Chapter XXX~~ Sec. 1703-8.11.

3. Post Final Development Plan Approval

All certificates of appropriateness which may be required by this Section after the approval of a final development plan shall be reviewed and determined in accordance with Sec. ~~1704-1.200~~ 1707-1.10, Alterations and Demolitions; Certificates of Appropriateness; Minimum Maintenance, above. ~~(Ordained by Ord. No. 217-2012, § 1, eff. July 20, 2012)~~

C. Relationship to Downtown Development (DD) District

Whenever a Historic District or Historic Asset is located within or overlaps the Downtown Development District, the provisions of this chapter control over any conflicting provisions of Sec. ~~1702-8 1703-7~~, Downtown Districts, ~~of the Cincinnati Land Development Code~~. In any such case the authority of the Zoning Hearing Examiner or the person or persons responsible for design review specified in Sec. ~~1702-8 1703-7~~, Downtown Districts, is transferred to the Historic Conservation Board and all references to the examiner or the person or persons responsible for design review therein are interpreted as references to the Historic Conservation Board. In such cases, the provisions of Sec. ~~1702-8 1703-7~~, Downtown Districts, where not inconsistent with the provisions of this chapter, apply to the exercise of the authority prescribed therein.

Sec. 1707-2. Hillside Overlay District

1707-2.1. Purpose

In hillside areas, the existence of a 20% slope, in combination with the KOPE geologic formation, is evidence of natural critical stability. Development under conventional standards may create landslides or excessive soil erosion. Hillside Overlay District regulations are necessary to establish standards to assist in the development of land and structures in existing hillside areas so that development will be compatible with the natural environment and respect the quality of the urban environment in those locations where the hillsides are of significant public value as determined by the City policy as outlined in the document “A Hillside Protection Strategy for Greater Cincinnati”, 1991. The following standards are intended to prevent damage to the City's hillsides by minimizing:

- A. Blighting influences caused by the application of conventional land use regulations to lots in areas having sensitive environmental qualities.
- B. The impact on or creation of unstable land.
- C. Significant damage to or destruction of hillsides or valleys.
- D. Significant damage to the economic value and efficiency of operation of existing properties or new developments due to the interdependence of their visual and functional relationships.
- E. Soil erosion and stream siltation.
- F. Destruction of mature trees and existing vegetation which serves to stabilize the hillsides and promotes a green visual landscape.

1707-2.2. Applicability

This Chapter applies to all development within a Hillside Overlay District.

- A. The following types of development are exempt from the provisions of this Chapter but remain subject to all other applicable laws and regulations:

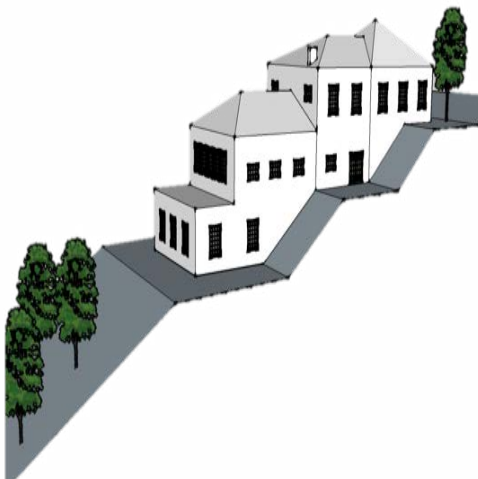
- 1. Roof, gutter, and chimney repair or replacement.
 - 2. Interior alterations and repairs, demolition or wrecking, driveways, fences, and signs.
 - 3. Construction of public utilities in the public right-of-way.
 - 4. Development for compliance with retroactive provisions of the Cincinnati Building Code.
 - 5. Development necessary for compliance with a lawful order of the Director, including deficiencies listed in Certificates of Inspection.
 - 6. Development necessary to ensure the immediate public health or safety by issued order from the Director.
- B. In the event of a conflict between the regulations of an underlying zoning district and the Hillside Overlay District, the regulations of the Hillside Overlay District shall govern. In the event of a conflict between the regulations of a Historic Preservation District or regulations for a designated Historic Landmark and the Hillside Overlay District, the historic regulations shall govern.

1707-2.3. Development Requirements

All non-exempt development in a Hillside Overlay District should comply with the guidelines established in the 1975 “Cincinnati Hillsides Development Guidelines” as prepared by the Cincinnati Institute for the City Planning Commission. Hillside development must also comply with the following requirements:

- A. Compliance with Zoning. Plans for development must comply with underlying zoning district development regulations.
- B. Height Versus Width. Buildings constructed on the top of the hillside must be taller than wider to accentuate the vertical dimension of the structure.

- C. Stepping. Buildings constructed below or above the brow of the hillside must be staggered or stepped in depth and width to match topography and slope of the hillside.
- D. Maximum Retaining Wall Height. Retaining walls shall not exceed eight feet in height measured from the finished grade. If more than eight feet of height is needed, a benched or terraced wall system shall be used to break up the mass of the wall.
- E. Rooftop Utilities. Rooftop utilities and mechanical equipment are prohibited. If rooftop utilities and mechanical equipment are necessary, screening and sound control must be provided to integrate them into the rooftop.
- F. Landscaping of Pervious Surfaces. All pervious surfaces remaining after the completion of construction must be landscaped in trees, shrubs, grass, or other ground covers to promote hillside stability and reduce excessive water runoff onto adjacent properties.
- G. Cut and Fills. All cuts and fills must be necessary to accommodate hillside development and be designed to minimize excavation required for foundations, parking, and access drives. The sum of all cuts and fills on a lot may not exceed eight feet in height and may not leave cliff-like vertical slopes. If more than four feet of height is needed, a benched or terraced wall system shall be used to break up the mass of the wall.
- H. Building Design. All structures must be designed to fit into the hillside rather than requiring alteration of the hillside to accommodate a structure.
- I. Tree Cover and Vegetation. New development must be performed in a manner that maximizes surrounding tree cover and minimizes alterations to the existing topography.
- J. Hillside Brow. Buildings must be setback from the brow of the hill to maintain a clear sense of the hillside brow
- K. Common and Public View. Buildings must be sited to reduce the impact on views from public viewing places and the views of neighboring property owners.
- L. Streets and Drives. To minimize grading any new street or drive designed to access multiple parcels must follow natural terrain contours to the extent possible.
- M. Cincinnati Hillside Development Guidelines. Development must conform to the policies contained in the "Cincinnati Hillside Development Guidelines."



1707-2.4. Approval of Hillside Development

- A. If the Director finds that a hillside development meets the requirements of this Chapter and all other applicable requirements of the LDC, the Director will issue a permit for the proposed work.
- B. If the Director determines the application does not conform to the requirements of this Chapter, a hearing and decision by the Zoning Hearing Examiner is required prior to the issuance of a zoning permit.
- C. The Zoning Hearing Examiner shall consider the application for development in the Hillside Overlay District in accordance the standards and procedures established in [Sec. 1707-2.3 § 1704-2.70](#).

1707-2.5. Appeal

Any party with standing may appeal a final decision of the Zoning Hearing Examiner to the Zoning Board of Appeals within 30 days after the mailing of the decision.

1707-2.6. Establishment of a Hillside Overlay District

City Council may establish ~~has~~ Hillside Overlay Districts upon determining that the area proposed for designation contains four of the following seven characteristics:

- A.** Slopes of 20% or greater;
- B.** Existence of KOPE geologic formations;
- C.** A minimum of one acre of contiguous land area;
- D.** Prominent hillsides that are readily visible from a public thoroughfare located in a valley below a hillside;
- E.** Hillsides that provide views of a major river, stream or valley;
- F.** Hillsides functioning as community separators or community boundaries as identified in a community plan accepted and approved by the Planning Commission; and
- G.** Hillsides that support a substantial natural wooded cover.

- F.** Hillsides functioning as community separators or community boundaries as identified in a community plan accepted and approved by the City Planning Commission; and
- G.** Hillsides that support a substantial natural wooded cover.

1707-2.7. What are the Criteria for the Establishment of an HS Overlay District?

City Council may establish HS Overlay Districts to include at least 50% of the area within one or more of the 23 hillside areas listed in the Hillside Study, "A Hillside Protection Strategy for Greater Cincinnati – Volume2: Identifying Greater Cincinnati's Sensitive Hillsides". In order to consider the application of an HS District, the area must contain four of the following seven characteristics:

- A.** Slopes of 20% or greater;
- B.** Existence of KOPE geologic formations;
- C.** A minimum of one acre of contiguous land area;
- D.** Prominent hillsides that are readily visible from a public thoroughfare located in a valley below a hillside;
- E.** Hillsides that provide views of a major river, stream or valley;

Sec. 1707-3. Stream Corridor Setbacks Overlay District

1707-3.1. Purposes

The general purposes of stream corridor setbacks are to:

- A. Provide areas for natural meandering and lateral movement of stream channels in order to protect life and prevent or minimize property damage from soil erosion and flooding; and reduce public costs for flood control, rescue, and relief efforts occasioned by unwise use or occupancy of floodplains.
- B. Maintain natural stream flow characteristics that absorb peak flows, help manage the velocity of floodwaters and regulate base flow.
- C. Naturally stabilize the banks of streams to reduce bank erosion and the downstream transport of sediments eroded from stream banks.
- D. Maintain water quality and minimize or remove pollutants delivered in stormwater through the natural capacity of riparian areas to filter ~~and purify~~ run-off.
- E. Maintain and provide a riparian canopy to shade streams and promote desirable aquatic organisms and fish habitats.
- F. Comply with Federal and State laws and regulations that address the need for floodplain management and protection.
- G. ~~Reduce water treatment cost.~~
- H. Protect wetlands.
- I. Minimize the impact of development on the natural, beneficial values of the floodplain.
- J. Prevent floodplain uses that are either hazardous or environmentally incompatible.
- K. Minimize the impact of development on adjacent properties within and near flood prone areas.

1707-3.2. Definitions

For the purposes of this Section, the following terms have the following meanings:

Bank. "Bank" means the land area bordering the stream channel equivalent to the width delimited by the ordinary high water mark.

Clean Water Act. "Clean Water Act" means the federal law entitled the Federal Water Pollution Control Amendments of 1972 and codified at 33 U.S.C. §1251 et seq.

Drainage Area. "Drainage area" means a contiguous geographical region, confined by drainage divides, having one common outlet for drainage discharge.

Erosion. "Erosion" means the wearing away of the land surface by the action of the wind, water, gravity, or other natural process.

Floodplain. "Floodplain" means the area next to a stream or a river that experiences flooding when water comes out of the banks of the main channel.

Ordinary High Water Mark. "Ordinary High Water Mark" is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Organic Farming: "Organic farming" means a form of agriculture that does not use any synthetic fertilizers or pesticides.

Riparian/Buffer Zone. "Riparian/Buffer Zone" means the vegetated area along both sides of water bodies and wetlands that generally consist of trees, shrubs and grasses. Riparian buffer zones act as buffers to protect surface waters from contamination and are habitats for a large variety of animals and birds.

Rivers and Harbors Act of 1899. "Rivers and Harbors Act of 1899" means the federal law codified at 33 U.S.C § 401 et seq.

Section 401 Permit. “Section 401 permit” means a permit issued under Section 401 of the Clean Water Act.

Section 404 Permit. “Section 404 permit” means a permit issued under Section 404 of the Clean Water Act.

Slope. “Slope” means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

(Stormwater. “Stormwater” means any surface flow, runoff, and drainage resulting from a precipitation event consisting entirely of water from any form of natural precipitation, including snow melt.

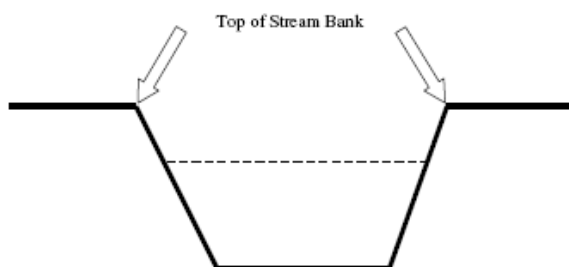
Stream. “Stream” means a surface watercourse having a channel with a well-defined bed and bank, either natural or artificial, which confines and conducts continuously or periodically flowing water in such a way that creates an ordinary high-water mark with the watercourse.

Stream, Open. “Open stream” means stream which are not diverted into a pipe or drainage system.

Stream Crossing. “Stream Crossing” means any bridge, box, arch, culvert, truss or other type of structure or facility intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole-mounted aerial electric or telecommunication lines, nor does it include below-grade utility lines.

Toe of Slope. “Toe of slope” means the base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade. On compound slopes where there may be more than one possible toe location, the controlling point shall be whichever toe location provides the greater hill area.

Top of Stream Bank. “Top of stream bank” means the well-defined break at the top of bank slope, where the flood plain begins.



Watercourse. “Watercourse” means the channel through which a flow of water occurs, either continuously or intermittently.

Wetlands. “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in water-saturated soil conditions, including, but not limited to, swamps, marshes, bogs, and similar areas.

1707-3.3. Applicability

This Section ~~1421-45~~ 1707-3 applies to all land areas and natural features within a stream corridor setback as established herein. The regulations contained in this Section ~~1421-45~~ 1707-3 are in addition to all regulations of the applicable zoning district and all applicable overlay districts; provided, however, that in the case of a conflict with the provisions this Section ~~1421-45~~ 1707-3, the regulations contained in this Section ~~1421-45~~ 1707-3 shall govern. The requirements of federal or state permits issued under Sections 401 or 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 shall govern when in conflict with the requirements of this Section ~~1421-45~~ 1707-3. Further, this Section ~~1421-45~~ 1707-3 is intended to compliment CMC Chapter 1109, and to the extent that it conflicts with any provisions of CMC Chapter 1109, then CMC Chapter 1109 shall govern. This Section ~~1421-45~~ 1707-3 is intended to compliment any riparian/buffer zones that are established and recorded prior to the initiation of any proposed development or land use changes. Where any conflict with any provisions of any established and recorded riparian/buffer zones arise, then the provisions of the riparian/buffer zone shall govern.

1707-3.4. Establishment of Stream Corridor Setbacks

The stream corridor setbacks established in this Section ~~1421-45~~ 1707-3 shall apply to all open streams within the City of Cincinnati. ~~The area to which a stream corridor setback applies is that area located within 65 feet of either side of the top of the slope of any open~~

stream; provided, however: The area to which a stream corridor setback is applied is based on the drainage area as shown below:

Drainage Area	Stream Corridor Setback
≤ 100 acres	25 feet
> 100 acres	65 feet

The area to which a stream corridor setback applies is that area located within 65 feet of either side of the top of the slope of any open stream; provided, however:

- A. Adjustment. The Director of City Planning & Buildings may adjust the width of the stream corridor setback as reasonably necessary to satisfy the purposes of this Section ~~1421-45~~ 1707-3. Any such adjustment shall be made based upon a review of available topography and flooding and/or stream meander patterns, so long as the width of the stream corridor setback shall not exceed 65 feet on each side of the stream. In the case of an adjustment, the exact location of the stream corridor setback shall be shown on a drawing created by the City and sent by certified mail to the record owner of the subject property not later than 30 days from the date of the decision on adjustment.
- B. Enlargement. A stream corridor setback shall be enlarged in areas where the average slope is greater than 50% and the toe of the slope is within the stream corridor setback. In such areas, the entire slope shall be included in the stream corridor setback.
- C. Where wetlands are located partially within a stream corridor setback, the stream corridor setback shall be extended to include the full extent of the wetland area plus any setback from the wetland required by a Section 404 permit or serving as a storm water control authorized under CMC Chapter 720. Portions of wetlands permitted to be filled under Section 401 and 404 of the Clean Water Act shall not be included in the stream corridor setback.

1707-3.5. Land Use Regulations.

The following land uses are permitted within a stream corridor setback:

- A. Organic Farming.
- B. Community Garden.
- C. Park and Recreation Facility, but excluding any building, swimming pool or impervious surface.
- D. Pervious trails, surfaces, or access roads.
- E. Nature preserves, forest preserve, fishing areas, wildlife sanctuaries
- F. Stream bank stabilization project, stream bank restoration project, vegetation restoration project to restore the riparian zone
- G. Stream crossing for farm vehicles
- H. Research and monitoring devices, such as staff gages, water recording, water quality testing, cross vanes, weirs and relates demonstrations facilities.

Any use or activity not permitted herein is prohibited within a stream corridor setback; provided, however, that a ~~special exception~~ Conditional Use may be obtained in accordance with ~~Section 1751-2.Relief 1445 below~~ and only after consideration of all of the additional standards set forth in ~~subsection (f)~~ Section 1707-3.5, Additional Standards for Special Exceptions below.

1707-3.6. Additional Standards for Special Exceptions.

In addition to the standards for ~~special exception~~ Conditional Uses set forth in Section ~~1751-2 Relief 1445~~ below, all of the following standards shall be considered in determining whether a special exception may be granted within a stream corridor setback:

- A. The proposed use is not a prohibited use in the base zoning district
- B. The proposed use will not adversely affect water quality or impair the function or chemical, physical, biological, and ecological integrity of the stream or river corridor.

- C. The proposed use will not remove or disturb the vegetation in a manner that is inconsistent with erosion and sedimentation control and stream corridor buffer protection.
- D. The proposed use will not store or discharge any hazardous or noxious material, except those used during emergencies for the treatment and/ or other maintenance of any public sewer and public water treatment facilities (i.e., generator sets or alternative drive units).
- E. The proposed use will not employ fertilizer, pesticide, herbicides, and/ or other chemicals, except:
 - 1. Where permitted by a valid conservation plan, forest management plan, or approved planting and maintenance plan.
 - 2. For selective herbicide application by a qualified professional to control noxious weeds and invasive species of plants in riparian buffers.
- F. The proposed use will not employ motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume of vehicular movement.
- G. The proposed use will not increase the danger to life and property due to increased flood heights or velocities.
- H. The proposed use will not increase the danger that materials may be swept downstream to the injury of others.
- I. The proposed use or structure must be located and designed to limit its susceptibility to flood damage, and alternative locations that are not subject to flooding must be considered.
- J. The expected heights, velocity, duration, rate or rise and sediment transport of the floodwaters expected at the site shall not cause significant damage, nor increase erosion downstream due to increased flood heights or velocities.

- K. The proposed use will not adversely affect water quality or impair the function or chemical, physical, biological, and ecological integrity of the stream or river corridor.

1707-3.7. Appeal

- A. Any person who is adversely affected by any determination made pursuant to this Section 1707-3 may appeal that decision to the Zoning Board of Appeals pursuant to ~~Chapter 1449~~ Chapter 1751-6, Zoning Board of Appeals.

Sec. 1707-4. Urban Design Overlay District

1707-4.1. Specific Purposes

The specific purposes of the Urban Design Overlay District are to:

- A. Protect and enhance the physical character of selected business districts that have adopted Urban Design Plans;
- B. Prevent the deterioration of property and blighting conditions;
- C. Encourage private investment to improve and stimulate the economic vitality and social character of selected business districts; and
- D. Ensure that infill development does not adversely affect the physical character of the area. ~~(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)~~

1707-4.2. Applicability and Zoning Map Designator

Except as otherwise provided in this chapter, all regulations of the underlying zone districts and other applicable overlay districts, apply to and control property in an Urban Design Overlay District; provided, however, that in the case of conflict between the provisions of an underlying zoning district and the Urban Design Overlay District, the provisions of the Urban Design Overlay District govern. ~~(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)~~

1707-4.3. Establishment of UD Overlay Districts

Council may establish a UD Overlay District whenever both of the following conditions are satisfied:

- A. Neighborhood Business Center. Upon finding that an area comprising a concentration of retail and service-oriented commercial establishments serves as the principal business activity center for a socio-geographic community.
- B. Urban Design Plan. Upon adoption of an urban design plan for the area that includes: A textual and graphic description of the physical and

environmental improvements necessary for the coordinated revitalization of the business district. The Urban Design Plan should include but is not limited to: the location of buildings, architectural character of the buildings, signage, pedestrian and vehicular circulations, parking, open space and landscaping. ~~(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)~~

1707-4.4. Applications Subject to Review

- A. The Director of Buildings and Inspections has the duty to review the following permits in an established Urban Design Overlay District for compliance with the base requirements of the district.
 - 1. Signs: Permits for the installation of all signs.
 - 2. Awnings: Permits for the installation of all awnings.
 - 3. Mechanical Equipment and Utilities: Permits for the installation of all exterior mechanical equipment and utility service connections.
 - 4. Replacement Windows: Permits for the installation of replacement windows.
 - 5. Exterior Renovation or Alterations of Existing Structures: Permits for exterior renovations, alterations, or additions.
 - 6. Eating and Drinking Establishments: Permits for Restaurants, Limited.
- B. The Zoning Hearing Examiner shall approve, approve with conditions or disapprove an application for development in an established Urban Design Overlay District in accordance with the base requirements of the district.
 - 1. New construction: Permits for new construction.
 - 2. Demolition: Permits for demolition. ~~(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)~~

1707-4.5. Development Standards in UD Overlay Districts

Development within individual UD Overlay Districts must comply with the standards prescribed below that the ordinance that establishes the UD Overlay District declares applicable to that district. These standards are intended to implement policies in adopted urban design plans. Whenever the standards conflict with the development regulations of the underlying district, these standards supercede those regulations. The following regulations will apply to some or all of the UD Overlay Districts as determined by the urban design plan prepared and adopted for each district. Refer to Table 1707-4.5, Urban Design District Standards for applicability.

	UD#1	UD#2	UD#3	UD#4	UD#5	UD#6	UD#7	UD#8	UD#9	UD#10	UD#11	UD#12	UD#13	UD#14
S1A1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
S2A2	X	X	X	X	X	X	X	X	X	X	X	X	X	X
S3A3	X	X	X	X	X	X	X	X	X	X	X	X	X	X
S4A4	X	X	X	X	X	X	X	X	X	X	X	X	X	X
A5	X	X	X	X	X	X	X	X	X	X	X	X	X	X
A1B1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
M1C1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
W1D1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
R1E1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
R2E2	X	X	X	X	X	X	X	X	X	X	X	X	X	X
E1F1		X		X	X		X	X			X			
F1G1		X						X						
N1H1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
N2H2	X	X	X	X	X	X	X	X	X	X	X	X	X	X
I1														
D1J1	X	X	X	X	X	X	X	X	X	X	X	X	X	X

UD #1 - College Hill Business District

UD #2 - Clifton Business District

UD #3 - Hartwell Business District

UD #4 - Hyde Park Square Business District

UD #5 - Oakley Square Business District

UD #6 - University Village Business District

UD #7 - North Avondale Along Reading Road

UD #8 - Mt. Washington Business District

UD #9 - Mt. Airy Business District

UD #10 - Columbia-Tusculum Business District

UD #11 - Hyde Park East Business District

UD #12 - Mt. Lookout Square

UD #13 - Pleasant Ridge Business District

UD #14 - [Kennedy Heights Business District](#)

A. Signs and Signage Standards:

1. ~~S1~~ Prohibited Signs:

- a. All blinking, flashing, rotating or moving signs, except barber poles and theater marquees;
- b. Neon signs;
- c. Banners, portable or temporary signs;
- d. Rooftop signs, signs or awnings extending above the roofline of the building, or signs or awnings that extend above the window sill line of the second floor of the building;
- e. Any advertising-sign on or about an unoccupied building, except those related to the sale or rental of that building;
- f. All signs, handbills, or flyers on utility poles, except those installed by the city and state.
- g. All outdoor advertising signs, as that term is defined in Cincinnati Municipal Code Chapter 895.

2. ~~S2~~ Projecting Signs

- a. Projecting signs shall not be used except for small identification or trademark signs symbolic of the business identified.
- b. The copy of all signs should identify the predominant business on the premises or its principal product or service.
- c. Advertising signs are prohibited.
- d. Projecting signs shall not exceed six square feet per sign face and shall not exceed 12 square feet for all faces.
- e. Projecting signs should be located over entry doors or building columns or piers and shall be limited to one projecting sign per business.
- f. All sign supports shall be simple in nature, have no visible guy wires and be made less obtrusive with camouflaging color in harmony with the surrounding environment.

3. ~~S3~~ Allowable Sign Area: In the case where buildings have multiple storefronts occupied by different tenants, the allowable signage area for each tenant will be calculated based upon the storefront street frontage in order to maintain a proportional distribution of signage area.

4. ~~S4~~ Non-Ground Floor or Interior Business Signs: For businesses located within an interior portion of a building, or on the second floor or higher story of a building and lacking an exterior wall or window area, a sign identifying the business no larger than six square feet may be affixed to the exterior of the building. This sign area shall be included in the maximum allowable area for all signs on the property.

5. ~~S5~~ Ground signs: where permitted, ground signs shall meet the following standards:

- a. Ground signs shall be a maximum sign area of not more than one square foot of sign area per linear foot of street frontage per sign face, up to a maximum sign area of 30 square feet per face, or 60 square feet for all sign faces.
- b. Ground signs shall be limited to two sign faces and shall not exceed 6 feet in height.
- c. Ground signs shall be located at or near the primary street frontage.
- d. Ground signs shall be compatible with the design of the building in proportion, shape, scale, materials, colors, and lighting.

B. Awning Standards:

1. ~~A1~~ Awnings shall meet the following standards:

- a. Awnings shall project no more than two-thirds the width of the sidewalk or six feet, whichever is less.
- b. Awnings shall run parallel to the face of the building.
- c. Awnings shall be located within the existing building framework - between columns and below spandrel panels. Awning colors and

design shall be compatible with the colors and design of the building.

- d. Structural supports for all awnings shall be contained within the awning covering.
- e. Each storefront bay shall have a similar awning to the other storefront bays on the same building.
- f. Awnings shall be designed to be harmonious with the architecture of the building that they are to be placed on. They shall relate in shape and proportion to the building's architectural elements such as window and opening shapes, facade articulation and general character of the building.

C. ~~M1~~ Mechanical Equipment and Utility Standards:

- 1. ~~M1~~: Mechanical equipment, including air conditioning, piping, ducts, and conduits external to the building shall be concealed from view from adjacent buildings or street level by grills, screens or other enclosures. Electric and other utility service connections shall be underground for new construction and encouraged for all other changes.

D. Replacement Window Standards:

- 1. ~~W1~~: Replacement windows shall meet the following standards:
 - a. Replacement windows shall fit the size and style of the original openings.
 - b. Original window and door openings shall not be enclosed or bricked-in on the street elevation. Where openings on the sides or rear of the building are to be closed, the infill materials shall match that of the wall and be recessed a maximum of three inches within the opening.

E. Exterior Renovation or Alterations of Existing Structures:

- 1. ~~R1~~: Renovations, alterations or additions shall be designed and executed in a manner that

is sympathetic to the particular architectural character of the structure being worked on. Architectural elements shall be sensitively designed to reflect the detailing and materials associated with the particular style of the building.

- 2. ~~R2~~: Renovations and restorations of older buildings shall respect the original building design, including structure, use of materials and details. New materials or signs shall not cover original materials and detailing. Natural materials (brick, slate, glass, stone, etc.) shall be retained in their natural state and not covered with any other contemporary materials. Materials that are out of keeping with the historic character of the building shall be removed from the facade upon significant exterior renovation or restoration of the existing structure.

F. Eating and Drinking Establishments:

- 1. ~~E4~~: Restaurants, Limited shall meet the following standards:
 - a. No more than 45% of their gross floor area may be devoted to food preparation, related activities and other space not accessible to the public;
 - b. No more than 35% of the restaurant's sales by dollar volume are carry-out and the patrons are served with other than single-use utensils, plates and beverage containers.
 - c. The consumption of food or beverage in automobiles parked upon the premises is prohibited.

G. Franchise Establishments:

- 1. ~~F1~~: New businesses should contribute to the desired mix of commercial activities; franchise type establishments are acceptable provided that they are primarily pedestrian and not automobile oriented.

H. New Construction:

1. ~~H1:~~New buildings shall be compatible with their surroundings. Architectural style, bulk, shape, massing, scale and form of new buildings and the space between and around buildings shall be consistent with the area, and should be in harmony with neighboring buildings.
 - a. New buildings shall respond to the pattern of window placement in the district. The designs of new buildings shall avoid long unrelieved expanses of wall along the street by maintaining the rhythm of windows and structural bays in the district. The preferred pattern of ground floor windows is open show windows, with inset or recessed entryways; and landscaping, lighting and other amenities equivalent to those existing in the district.
 - b. Buildings shall de-emphasize secondary rear or side door entrances to commercial space, unless the entrances are associated with public parking areas.
2. ~~H2:~~The Zoning Hearing Examiner shall review and consider applicable Community Plans approved by City Council when making decisions for projects in an Urban Design District.
 - a. Proposed uses shall be consistent with the goals, objectives and guidelines of the community plans approved by City Council.

I. Maximum Building Height

1. ~~H1:~~Maximum Building Height of new construction is limited to 50 feet; additional height up to 85 feet is permitted with a Conditional Use hearing.

J. Demolition:

1. ~~D1:~~Demolition has been ordered by the Director of Buildings and Inspections for reasons of public health and safety:
 - a. The structure does not contribute to the architectural quality of the district;
 - b. The demolition is necessary to accomplish the construction of a building which would

meet the guidelines contained in the urban design plan;

- c. The demolition is necessary to provide parking and/or other uses in a manner specified in the urban design plan;
- d. The owner has endeavored in good faith to find a use for the structure and is unable to obtain a reasonable rate of return on the property;
- e. Demolition has been ordered to remove blight. (~~Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 268-2008, § 1, eff. Sept. 6, 2008; a. Ord. No. 298-2009, § 1, eff. Dec. 12, 2009; a. Ord. No. 99-2013, § 1, eff. May 24, 2013~~)

1707-4.6. Approval

- A. If the Director ~~determines finds~~ that an application conforms to the requirements of 1707-4.5 above and all other requirements of this Code, the Director ~~has the duty to will~~ issue a ~~building~~ permit for the proposed work. The Director has the duty to notify all owners of property abutting the subject property and the community organization recognized by the Council as representing the area that includes the subject property.
- B. If the Director determines the application does not conform to the requirements of this 1707-4.5 above, the Director shall notify the applicant that the application requires a hearing and decision by the Zoning Hearing Examiner, who shall consider the application in accordance with the standards and procedures established in Section 1751-5.~~is required, pursuant to Chapter 1751, Administration, prior to the issuance of a permit. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)~~

1707-4.7. Appeal

Any party with standing may, pursuant to Sec. 1751-6, Zoning Board of Appeals, appeal to the Zoning Board of Appeals within 30 days after the decision of the Zoning Hearing Examiner. (~~Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004~~)

Sec. 1707-5. Interim Development Controls Overlay District

1707-5.1. Purpose

The purpose of the Interim Development Control (IDC) Overlay District is to temporarily regulate the establishment of uses, construction of new buildings and demolition or alteration of existing structures in areas where potential development could be detrimental or have adverse impacts on the implementation of approved amendments to the Cincinnati Land Development Code, approved or adopted plans, or current planning, land use or zoning studies. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; Emer. Ord. No. 218-2012, § 1, eff. June 20, 2012)

1707-5.2. Applicability and Zoning Map Designator

An IDC Overlay District may be applied to any district. It is adopted as an amendment to the Zoning Map. This Overlay District is shown on the zoning map by an IDC designator applied to the base district designation. Where inconsistencies exist between the IDC Overlay District regulations and other provisions of the Cincinnati Land Development Code and the Municipal Code, the IDC Overlay District regulations apply. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.3. Establishment of IDC Overlay Districts

After receiving an affirmative recommendation from the City Planning Commission, Council may establish an IDC Overlay District on finding that:

- A.** Proposed Amendments. Amendments to the Cincinnati Land Development Code have been approved or are under consideration through the following actions:
 - 1. The City Planning Commission has approved amendments to the Cincinnati Land Development Code; or
 - 2. The City Planning Commission has approved or adopted a comprehensive plan, community plan, urban design, urban renewal plan or other planning document which contains recommendations to amend the Cincinnati Land Development Code; or
 - 3. The City Planning Commission, City Council or the City Manager has directed city administration to study planning, land use or zoning issues in the proposed IDC Overlay District boundary.
- B.** Study and Review. The proposed amendments may substantially affect permitted uses in the area of consideration and will require the study and review by the City Planning Commission, city administration and Council prior to adoption; and
- C.** Public Interest. The protection of the public interest requires that interim development controls be imposed during the period of study and review by the City Planning Commission. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; Emer. Ord. No. 218-2012, § 1, eff. June 20, 2012)

1707-5.4. IDC Application Review Guidelines

The ordinance to adopt an IDC Overlay District must:

- A.** Applications Subject to Review. Specify which of the following permit applications are to be reviewed by the City Planning Commission. The applications may include:
 - 1. Building permits for new construction, demolition of existing structures, exterior or interior alterations or additions to existing structures and changes in use.
 - 2. Building permits for signs.
 - 3. Building permits for site improvements.
 - 4. Permits for the construction or reconstruction of streets or sidewalks.

- 5. Subdivision improvement plans.
 - 6. Excavation and fill permits.
 - 7. Certificate of Compliance.
- B.** Application Review Guidelines. Adopt application review guidelines for each application subject to review specified in Section 1704-5.80, Applications Subject to Review, for the purposes of providing the City Planning Commission with criteria for the exercise of its authority, as granted in this Section.
- C.** Administrative Review. Designate the city department, division, or official responsible for conducting the administrative review of these applications. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.5. Three-Month IDC Overlay Districts

Council may establish IDC Overlay Districts to remain in effect for three months without prior notice, advertisement or public hearing. The Director has the duty to give notice of the establishment of the district and the time and place of a public hearing on the extension of the district for an additional nine-month period within ten business days of the establishment of an IDC Overlay District, by placing an advertisement in a newspaper of general circulation and, if less than 100 parcels of property are within the district, by sending the notice to all owners of record. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.6. One-Year IDC Overlay Districts

Council may establish IDC Overlay Districts to remain in effect for one year, or extend IDC Overlay Districts established pursuant to 1704-5.50, Three-Month IDC Overlay District, for nine additional months if notice has been given and a public hearing held in accordance with § 111-1, Hearings on Zoning Regulations, of the Municipal Code and on finding that:

- A.** Ongoing Study. The City Planning Commission is studying proposed Cincinnati Land Development Code or map amendments that would affect the area within the IDC District;
- B.** Study Completion. The study is not yet completed, but may reasonably be expected to be completed and Cincinnati Land Development Code amendments enacted within the year; and
- C.** Inconsistent Uses. There is a prospect of changes in use, construction of new structures or alteration or demolition of existing structures that would be inconsistent with preliminary objectives or findings for the area approved by the City Planning Commission. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.7. Extension of IDC Overlay Districts

Council may extend the duration of an IDC Overlay District by an additional six months, provided that an IDC Overlay District may not remain in effect for more than two years from the date it was first established. Notice is to be given and a public hearing held in accordance with § 111-1, Hearings on Zoning Regulations, of the Municipal Code prior to the adoption of any IDC Overlay District extension. Council may only adopt an IDC Overlay District extension after receiving an affirmative recommendation from the City Planning Commission and finding that:

- A.** Complex Study. The study of the proposed amendment to the Cincinnati Land Development Code or map that would affect the allowable land uses within the IDC Overlay District has proven to be extraordinarily complex by reason of unusual geographic, physical or social conditions in the district;
- B.** Study Incomplete. The City Planning Commission has not yet completed the consideration of the proposed Cincinnati Zoning Map amendments that would affect the allowable land uses within the IDC Overlay District; and

- C. Inconsistent Uses. There is a prospect of change in use, construction of new structures or alteration or demolition of existing structures that would be inconsistent with preliminary objectives or findings for the area approved by the City Planning Commission. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.8. Applications Subject to Review

The City Planning Commission has the duty to review applications in an established IDC Overlay District as specified in the ordinance that enacted the IDC Overlay District.

A permit made subject to review pursuant to the ordinance establishing the IDC District may not be issued unless approved by the City Planning Commission. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

1707-5.9. Standards for Review

The administrative reviewer appointed pursuant to subparagraph 1704-5.40(c), Administrative Review, has the duty to prepare an advisory report that evaluates whether the proposed work is in compliance with the application review guidelines adopted. The administrative reviewer has the duty to file the report with the City Planning Commission within 30 business days of the date of application.

The City Planning Commission may approve applications in an established IDC Overlay District if the proposed work is in compliance with the application review guidelines adopted pursuant to subparagraph 1704-5.40(b), Application Review Guidelines, on finding that:

- A. Proposed Work Permitted by Current and Proposed Zoning. The proposed work is permitted or conditionally permitted in the base district, conforms to all standards and performance criteria of the Cincinnati Land Development Code and does not conflict with any proposed amendment to the Cincinnati Land Development Code then under consideration by the City Planning Commission or Council.
- B. Proposed Work Compatibility. The proposed work is compatible with the predominant or prevailing land use, building and structure patterns in the surrounding neighborhood and community.
- C. No Detrimental Effect to the Public. The proposed work is not detrimental to the public peace, health, safety or general welfare.
- D. No Adverse Effect on Adjoining Properties. The proposed work has no adverse effect on the access to the property for fire and police protection and adequate public facilities and services, access to light and air from adjoining properties, traffic conditions, transportation requirements and facilities or development and use of adjacent land, structures and buildings. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 253-2005, eff. July 21, 2005)

1707-5.10. Review of Permit Applications

After receiving an advisory report from the administrative reviewer, the City Planning Commission has the duty to consider applications for permits as follows:

- A. Public Hearing. The City Planning Commission has the duty to hold a public hearing on the application at a regularly scheduled Commission meeting within 30 days of acceptance of the advisory report prepared pursuant to Section 1704-5.90, Standards for Review. Notice of the hearing must be sent to the applicant, owners of record of adjoining properties and any person requesting notice. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the reviewer responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.
- B. Exceptions from Underlying Zone District Regulations. The City Planning Commission may grant exceptions from the underlying zone district regulations other than those relating to use,

maximum number of dwelling units and maximum floor area ratio, when the exceptions are consistent with the application review guidelines adopted pursuant to, Section 1704-5.40, IDC Application Review Guidelines, and the standards for review set forth in Section 1704-5.90, Standards for Review.

- C. Decision of the City Planning Commission. The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. The application may be approved, subject to conditions necessary to ensure that the development plan is lawful and in the public interest. If the application is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The failure of the proposed work to conform with any single factor is not necessarily a sufficient basis for denial. The City Planning Commission has the duty to approve an application that maximizes both the public interest and private benefits generally. The City Planning Commission has the duty to send its conclusions to the applicant, appropriate city officials and others who request a copy. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 253-2005, eff. July 21, 2005)

1707-5.11. Appeal

Any adversely affected person may appeal a decision of the City Planning Commission made pursuant to this chapter to Council pursuant to the provisions of § 111-3, Appeals to Council, of the Municipal Code. The notice of appeal must be filed with the Clerk of Council within 30 days of the mailing of the City Planning Commission's decision to the applicant. Those "adversely affected" include the applicant or any other person, organization or association, who appeared before the City Planning Commission personally, by representative or in writing and expressed a position contrary to the decision of the City Planning Commission.